

Exhibit 59 Supplement Weber Deposition

Thomas Weber

Pages: 29, 30, 31, 32, 34, 35, 36, 50, 51

Dated: June 9, 2021

Thomas Weber, Esquire

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES JOSEPH FREITAG,	:	NO. 2:19-cv-05750-JMG
JR., as Administrator of	:	
the ESTATE OF CHARLES	:	
JOSEPH FREITAG, SR.,	:	
Plaintiff	:	
	:	
vs.	:	
	:	
BUCKS COUNTY; PRIMECARE	:	CIVIL ACTION - LAW
MEDICAL, INC.; STEPHAN	:	
BRAUTIGAM, PMHNP;	:	
JESSICA MAHONEY, PSY.D.;	:	
AVIA JAMES, LPC;	:	
CHRISTINA PENGE, LPC;	:	
CORRECTIONAL OFFICER	:	
MOODY; CORRECTIONAL	:	
OFFICER MURPHY; and	:	JUDGE JOHN M. GALLAGHER
CORRECTIONAL OFFICER	:	
YOUNG,	:	
Defendants	:	

ZOOM DEPOSITION OF THOMAS WEBER, ESQUIRE

DATE AND TIME: Wednesday, June 9, 2021
at 2:30 p.m.

KAPLAN LEAMAN & WOLFE
COURT REPORTING & LITIGATION SUPPORT
230 SOUTH BROAD STREET, SUITE 1303
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1 timelines that I've outlined?

2 A. Yes.

3 Q. Second, is that consistent with your
4 understanding of what the practice was at Bucks County in
5 that time frame?

6 MR. NINOSKY: Object to the form.

7 THE WITNESS: Yes.

8 BY MR. FEINBERG:

9 Q. My understanding from Dr. Cassidy, in
10 particular, in her testimony is that mental health staff
11 would leave the facility by 4:00 p.m. Is that your
12 understanding as well?

13 A. That was when their -- yeah, their
14 workday would end. Yes.

15 Q. All right. So their workday was -- I
16 forget the start time -- but 6:30 or 7:00 a.m. Does that
17 sound right?

18 A. I think it's 6:00 to 4:00, was 6:00 to
19 4:00.

20 Q. So after 4:00 p.m. Monday through Friday
21 there would be no mental health staff in the facility;
22 correct?

23 A. Correct.

24 Q. And Friday 4:00 p.m. until Monday 6:00
25 a.m. there are no mental health staff in the facility.

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1 Is that correct?

2 A. I'm sorry, I didn't hear that.

3 Q. Sure. Friday, 4:00 p.m., the end of the
4 regular work week, until Monday, 6:00 a.m., the start of
5 the regular work week, there were no mental health staff
6 in the building. Is that correct?

7 A. Yes, unless one was called in for an
8 emergency.

9 Q. Okay. Now, my understanding also from
10 both Bucks County witnesses who have testified and
11 PrimeCare witnesses who have testified, is that the
12 majority -- the significant majority of -- of situations
13 where people were taken to court and then brought back to
14 the facility, those people would return to the facility
15 from court after 4:00 p.m. Is that consistent with your
16 understanding, sir?

17 MR. NINOSKY: Object to the form, but you
18 can answer if you have an understanding.

19 THE WITNESS: Generally that's my
20 understanding of how transports occur from court in all
21 counties.

22 BY MR. FEINBERG:

23 Q. Okay. And do you have any reason to
24 dispute the characterization, with regard to Bucks
25 County, when you connect the two lines of testimony that

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1 I've just outlined for you, that mental health staff were
2 not available in the facility in the majority of
3 situations when people return from court?

4 MR. NINOSKY: Object to the form. You
5 can answer.

6 THE WITNESS: Correct.

7 BY MR. FEINBERG:

8 Q. Who within PrimeCare, whether at the
9 County level or at the corporate level, was responsible
10 for determining staffing rules in that time frame of,
11 let's say -- and, I'm sorry.

12 Let me withdraw that question and note
13 for the next several questions the time frame I'm
14 referring to is June of 2018 to August of 2018 when Mr.
15 Freitag was in the facility.

16 A. What?

17 Q. Was that a yes, sir?

18 MR. NINOSKY: Jon, you broke up. You'll
19 have to restate that for us, please.

20 MR. FEINBERG: Yeah, okay.

21 BY MR. FEINBERG:

22 Q. For the next several questions -- thank
23 you, John. The next several questions, sir, the time
24 frame I'm going to refer is -- is when Mr. Freitag was in
25 the facility from June of 2018 through August of 2018.

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1 Understood?

2 A. Yes.

3 Q. Okay. In that time frame who within
4 PrimeCare, whether at the corporate level or the County
5 level, was responsible for determining staffing --
6 determining staffing?

7 A. What aspect of staffing?

8 Q. Well, whose decision was it to have no
9 mental healthcare available in the building after 4:00
10 p.m. Monday through Friday?

11 MR. NINOSKY: Object to the form.

12 THE WITNESS: We were approached to
13 assume the mental health component of the patient care
14 at the facility under the terms that it had previously
15 been provided, in terms of hours. We made
16 recommendations to increase the number of employees but
17 the hours were what they were and that's what we were
18 asked to provide.

19 BY MR. FEINBERG:

20 Q. Now, I've seen from previous
21 documentation that -- well, strike that.

22 Remind me, sir, when did PrimeCare enter
23 Bucks County as the medical provider?

24 A. As the medical provider, I want to say
25 2014.

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1 A. Yes.

2 Q. Did PrimeCare make any recommendations
3 about the hours at which mental health staff would be
4 available?

5 A. Not at that time, no.

6 Q. Were those -- were the hours for
7 availability of mental healthcare staff the subject of
8 any negotiations?

9 A. No.

10 Q. Well, for example, did the County put out
11 an RFP for mental healthcare?

12 A. No.

13 Q. This was part of ongoing -- an ongoing
14 business relationship. Is that how it worked?

15 A. Yeah. The -- the Director of the
16 Department of Health there, you know, had seen our
17 operations on the medical side. He perceived some
18 utility from combining the services for coordinated
19 care, approached us and asked if we would be willing to
20 do so. And after some period of time, you know, we
21 agreed and then were able to come to terms and start the
22 care.

23 Q. Who is the director from the County?

24 A. Dr. Damsker, David.

25 Q. D-A-M-S-K-E-R?

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1 A. I believe so.

2 Q. Let me ask it this way. Do you recall
3 personally -- strike that.

4 In the course of these negotiations I
5 assume PrimeCare became aware of what hours mental
6 healthcare staff would be expected to work. Is that
7 correct?

8 MR. SCOTT: Objection.

9 THE WITNESS: Yes.

10 BY MR. FEINBERG:

11 Q. The hours being 6:00 to 4:00, Monday
12 through Friday; correct?

13 A. Yes.

14 Q. At any time did you personally raise any
15 concerns that that may not provide enough coverage for
16 mental healthcare needs of prisoners?

17 MR. NINOSKY: Object to form.

18 THE WITNESS: No. It's --

19 BY MR. FEINBERG:

20 Q. Did anyone within PrimeCare --

21 A. -- rather exhaustive coverage.

22 Q. Yeah. I spoke over you, Mr. Weber, so if
23 you could just repeat your answer.

24 A. No. I mean it's rather exhaustive
25 full-time coverage.

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1 Q. Did anyone raise any concerns about the
2 availability -- anyone within PrimeCare raise any
3 concerns about the hours at which mental healthcare would
4 be available?

5 A. No.

6 Q. Did anyone from the County make any
7 suggestions that mental healthcare staff -- it would be
8 helpful to have mental healthcare staff available for
9 longer time periods during the day or during the weekend?

10 A. I don't believe so, no.

11 Q. Did anyone, PrimeCare or Bucks County,
12 ever raise any concerns that having mental healthcare
13 staff leave at 4:00 p.m. would prevent mental healthcare
14 staff from being available when people returned from
15 court?

16 MR. NINOSKY: Object to the form.

17 THE WITNESS: No.

18 BY MR. FEINBERG:

19 Q. Was there -- so, in sum, it sounds like
20 there was no consideration at that time, any time before
21 August of 2018, of having mental healthcare staff in the
22 building after 4:00 p.m. Is that correct?

23 A. That's correct.

24 Q. In the -- I guess nearly -- well, 80 as
25 of next week, facilities where PrimeCare has a contract

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1 BY MR. FEINBERG:

2 Q. Yeah. All right. I've got to remember
3 what the question was. Is there -- I think it's this.
4 Is it correct then, sir, that there is no contractual
5 provision or any other rule that you're aware of which
6 would have prevented PrimeCare from making the staffing
7 change before it actually happened?

8 MR. NINOSKY: Object to the form.

9 THE WITNESS: Given the caveat that we
10 would let them know beforehand -- and I guess they could
11 object and say, you know, that's during meal time,
12 everyone is gonna be on lockdown so there's no use doing
13 it -- but there's no impediment or policy that doesn't
14 allow us to propose and sell that change.

15 BY MR. FEINBERG:

16 Q. And it sounds like -- you talked about
17 that meal time -- that's speculating about a concern that
18 the County would raise. Is that correct?

19 A. We -- we encounter that at times, count,
20 meal time. There are certain times throughout the day
21 that you know you're not going to get patients so you do
22 more administrative work during those windows so....

23 Q. When the change was made in early 2019,
24 whenever it was, there was no objection from the County.
25 Is that correct?

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1 A. That's correct.

2 Q. Are you aware of any audits or studies
3 that have been done since this change was made, which
4 would document how many people are seen in that time
5 period between 4:00 and 5:00 p.m. by mental healthcare
6 staff?

7 A. No, I am not aware of any studies. I am
8 just thinking about our EMR and whether -- I assume the
9 data can be pulled, but I'm unaware of any studies.

10 Q. And really what I'm getting at is this,
11 Mr. Weber, is that, you know, once the change was made
12 has anyone gone back and looked to decide -- to see, was
13 this an effective use of resources now that we've made
14 this change? Do you know of anything like that?

15 A. Not any actual statistical review.

16 Q. Have you heard any, at least anecdotally,
17 any discussion from the mental health staff or anyone
18 else at PrimeCare corporate on this topic?

19 A. It was viewed as, you know, a positive
20 change at the time it occurred, and I have not heard
21 anything that says that change, that view of how it
22 would work, has changed to the negative.

23 Q. You used the passive voice to describe
24 how it was viewed -- and that's not a critique -- so my
25 question is who -- who informed you that it was viewed